

HASKELL COUNTY CONSERVATION DISTRICT NO. 81
1005 West Main - Stigler, Ok 74462 - Phone (918) 967-8608 - FAX (918) 967-2602

District Manager
GARY HUGGINS

District Secretary
LISA STRICKLIN

February 11, 2004

Comments on the Proposed Final Rule, CSP

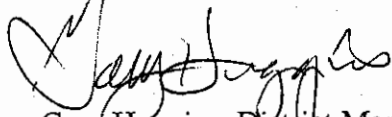
David McKay
Conservation Operation Division, NRCS
PO Box 2890
Washington, D. C. 20013

Dear David:

At the regular meeting of the Haskell County Conservation District Board of Directors on February 11, 2004, the board passed a resolution commending the NRCS for their guidance of this process through a continuously evolving environment, and they asked me to send a copy of their concerns about the proposed rule.

Thank you for allowing us to comment.

Sincerely,



Gary Huggins, District Manager

Enclosure

BOARD OF DIRECTORS

GENE STEPHENS
Box 480
Keota, OK 74941

JERRY TERRELL
Rt. 1, Box 4870
Stigler, OK 74462

CECIL BRATTON
Rt. 2, Box 2010
Stigler, OK 74462

CHUCK ROYE
P.O. Box 122
Lequire, OK 74943

BILL WILSON
P.O. Box 208
Kinta, OK 74552

February 11, 2004

Comments on the Proposed Final Rule, CSP

To: David McKay
Conservation Operation Division, NRCS
PO Box 2890
Washington, D.C. 20013

From: Haskell County Conservation District
Stigler, Oklahoma

Greetings,

Several changes occurring since the program's enactment have resulted in frequently changing assumptions, making the process to develop this complex rule difficult and tedious. The Natural Resources Conservation Service is to be commended on navigating this process through a continuously evolving environment.

Upon initial review, the proposal appears to have many positive features given the constraints faced during its development. In addition to the positive, we at Haskell County Conservation District have identified several issues of concern that need to be addressed in comments.

Most Critical Concern

Capped Entitlement---Although the 2002 Farm Bill proposed the CSP as an entitlement program with a \$7 billion estimated cost, the FY '03 Omnibus Appropriations Bill capped funding at \$3.77 billion over ten years. This proposed rule was written with that limitation as a constraint. However, the '04 Omnibus passed by both houses and signed by the President removes that limitation, restoring the original statutory intent. That change makes it necessary for NRCS to develop, release and seek comments on a supplement to the rule based on CSP as an uncapped entitlement program, available to all producers as defined in the law.

High Priority Concerns

Watershed Limitation---Because of the cap, rather than operating CSP as a full national program, USDA will identify and offer CSP only in high priority watersheds. According to the statute, eligible land includes *"private agricultural land (including cropland, grassland, prairie land, improved pasture land, and rangeland), land under the jurisdiction of an Indian Tribe (as defined by the Secretary), and forested land that is an incidental part of an agricultural operation."* No reference is made to giving preference to producers in "priority watersheds", except in the case of enhanced

payments for producers who cooperate within a watershed. This underscores the need for a supplement to the rule to remove the watershed limitation once the cap was lifted.

Resource Concerns---According to the law, all resource concerns in the FOTG, such as soil, air and water quality, wildlife and plant habitat and forest stewardship, are eligible for participation. The proposed rule requires soil and water quality to be addressed for all three tiers and places a lower priority on all other resource concerns.

Cost Share Payments---The proposed rule requires cost-share payments to be less than EQIP. The CSP law provides a cost-share limit of 75 percent---the same as EQIP, WHIP and other cost-share programs.

Base Payments---The law requires that the 2001 national rental rate, or an appropriate rate where the national rental rate does not accurately reflect local conditions, be used to establish the CSP base payment. The proposed rule uses state and local rental rates, but reduces the base payment down to 10 percent of the already reduced rate in the law. The Farm Bill CSP report language states that "the Secretary shall not provide a rate lower than the national average rental rate."

Eligible Practices---NRCS proposes to offer a substantially reduced list of eligible practices. The law only provides two limits: animal waste transport and storage---all other practices are eligible.

Examples of Other Concerns and Areas of Improvement

Requiring Work without Payments---The rule proposes that parcels of land for which the producer cannot demonstrate control of the land for five or more years will not be eligible for CSP payments. However, that land is required to be maintained to the same conservation standard as the rest of the operation, and the land is considered within the area of the contract. Therefore, failure to maintain that standard would result in a contract violation.

Contract Limits---The statute does not address the number of contracts a producer can have. Thus, NRCS proposes not to limit the number of contracts that can be held by a participant. However, the proposed rule's definition of an agricultural operation "*all agricultural land, and other lands whether contiguous or noncontiguous, under the control of the participant and constituting a cohesive management unit*" is intended to encourage producers to submit a single contract.

Sign-Ups---The proposed rule provides for periodic sign-ups. Although not specifically addressed in the law, most of us who worked for passage of this law thought the CSP would be implemented with a continuous sign-up, allowing much greater producer access than periodic sign-ups offer.

In Conclusion

Next Level of Conservation---The CSP Program can bring this country to the next level of Conservation. It addresses the missing piece. We now have a program that offers the public assurance those conservation practices, which they help fund, will be maintained for long periods of time. Thus providing confidence those expenditures of public funds will produce desired outcomes.

106

**Maryland DNR
Forest Service**



Patrick E. Meckley
Forest Stewardship Program Manager

Tawes State Office Building
580 Taylor Avenue, E-1
Annapolis, MD 21401

Phone: 410-260-8508

Fax: 410-260-8595

Toll-Free: 1-877-620-8367
Extension 8508

pmeckley@dnr.state.md.us

Conservation Security Program Comment Sheet

Publication of the proposed rule for the Conservation Security Program (CSP) on January 2, 2004, marks the start of the 60-day public comment period. Public comment will be an important part of creating the Conservation Security Program. You may access it via the Internet through the NRCS home page at <http://www.nrcs.usda.gov>. Select "Farm Bill." People can submit comments to david.mckay@usda.gov or mail their comments to Conservation Security Program Comments, ATTN: David McKay, Conservation Operations Division, NRCS, P.O. Box 2890, Washington, D.C. 20013.

Comments are sought on all facets of the program. The intent of this document is to summate those areas. You are encouraged to refer to the proposed rule publication for detailed information.

1. Preferred Approach (page 197): Under the constraints of a capped entitlement, the Secretary has proposed ways to still deliver an effective CSP program. NRCS is proposing an approach based on five elements. Comments are requested on this overall approach:

- **Limit sign-ups:** Conduct periodic CSP sign-ups
- **Eligibility:** Criteria should be sufficiently rigorous to insure that participants are committed to conservation stewardship. Additionally, eligibility criteria should ensure that the most pressing resource concerns are addressed.
- **Contracts:** Requirements should be sufficiently rigorous to ensure that participants undertake and maintain high levels of stewardship.
- **Enrollment categories:** Prioritize funding to insure that those producers with the highest commitment to conservation are funded first.
- **Payments:** Structure payments to ensure that environmental benefits will be achieved.

(A more detailed description of this approach can be found on page 197 under the heading *NRCS Preferred Approach*.)

Comments: _____

2. Funding Enrollment Categories (page 198, 3rd column). Under "4. Prioritize Funding To Ensure That Those Producers With the Highest Commitment to Conservation Are Funded First," NRCS is inviting comment on how to handle situations where there may be insufficient funds for all enrollment categories.

Comments: Establish a rating evaluation system by assigning a numerical rating for completed conservation practices. Forestry management practices should be included.

3. **Enhancement Activities** (page 199, column 1 and 2). The Statute offers five types of enhancement activities and NRCS is seeking comments on the following concepts:

- The improvement of a significant resource concern to a condition that exceeds the requirements for the participant's tier of participation and contract requirements.
- An improvement in a priority local resource condition.
- Participation in an on-farm conservation research, demonstration or pilot project.
- Cooperation with other producers to implement watershed or regional resource conservation plans that involve at least 75% of the producers in the targeted area.
- Implementation of assessment and evaluation activities relating to practices included in the CSP.

Comments: Ensure that specific forestry management practices are included in the CSP.

4. **Alternative Approaches** (page 199 and 200). In addition to the preferred approach, NRCS considered several alternatives. NRCS is seeking comments on the proposed approach and these alternatives.

- Use enrollment categories to prioritize CSP resources in high priority watersheds identified by NRCS administrative regions.
- Apportion the limited budget according to a formula of some kind, for example by discounting each participant's contract payment equally.
- Close sign-up once available funds are exhausted.
- Limit the number of tiers of participation offered.
- Only allow historic stewards to participate – only those who have already completed the highest conservation achievement would be funded.

Comments: _____

5. **Limited Resource Producers** (page 201, column 3). NRCS welcomes examples and suggestions for identifying conservation opportunities related to limited resource operations. Comments regarding how other programs could best help limited resource

and other less capitalized producers to become eligible for CSP, given the stewardship standards to participate, are also welcome.

Comments: Include private forest land owners as eligible producers for CSP.

6. **Leveraging CSP** (page 201, column 3). NRCS is seeking comment on the opportunity to use CSP in a collaborative mode with other programs to effectively leverage the Federal contribution to resource improvement and enhancement.

Comments: _____

7. **Leveraging CSP** (page 202, column 1). NRCS is seeking comment on how to implement a program that uses collaboration and leveraging of funds to achieve resource improvements on working agricultural lands through intensive management activities and innovative technologies.

Comments: Include silvicultural practices in intensive management activities.

8. **Environmental Performance, Evaluation and Accountability** (page 202, column 3). NRCS welcomes comments and suggestions for designing and implementing evaluation approaches, and suggestions as to what data and information would be most useful to ensure a high level of accountability for CSP.

Comments: _____

9. **Significant Resource Concerns** (page 203). NRCS is proposing to designate water quality and soil quality as nationally significant resource concerns. NRCS requests additional public comment on the use of nationally significant resource concerns.

Comments: *Reference the importance, especially the importance that riparian forest buffers contribute toward improving water quality.*

10. Definition of Agricultural Operation (page 205, column 2). The Act refers to "agricultural operation" without defining the term. NRCS has evaluated various definition alternatives and is seeking comment on their chosen proposed definition found on page 205, column 2. This definition is the same as used in the Great Plains Conservation Program (GPCP).

Comments: *Include forest land along with agriculture land in the definition of "Agricultural Operation."*

11. Incidental Forest Land (page 206, column 1). Forestland offered for inclusion in a CSP contract as an incidental part of the agricultural operation must meet the guidelines listed on page 206, column 1. NRCS is seeking comments on the usefulness of these guidelines for managing questions relative to the inclusion of incidental forested lands in CSP contracts.

Comments: *Drop the term "Incidental" from Forest Land. If it must be used, it should only apply to forest land that doesn't have a Forest Stewardship Plan or a Forest Management Plan prepared on it. Forest land placed under management should not be considered incidental.*

12. Incidental Forest Land Treatment (page 206, column 1). Another issue that NRCS seeks guidance on is the question of what level of treatment should be required for the forestland that is included in the CSP contract as land incidental to the agricultural operation?

Comments: *Incidental Forest Land treatment should only apply to forested land without a written Forest Stewardship or Forest Management Plan written on it. Once a plan has been prepared the term "incident treatment" shouldn't apply.*

13. Enhancement Payments (page 206, column 3). NRCS seeks additional comments on the construction and calculation of enhancement payments.

Comments: *Be sure to include forestry management practices as eligible practices for enhancement payments.*

14. Contract Limits (page 206, column 3). NRCS seeking additional comments on the idea of a one-producer, one-contract approach brought up by the respondents to the Advanced Notice of Proposed Rule.

Comments: _____

15. Administration (page 208, column 2). One important aspect of CSP administration is the procedures NRCS will follow if NRCS receives more eligible applications than it can fund. NRCS is specifically seeking comment on how to select the contracts of the pool of eligible producers to best serve the purpose of the program.

Comments: *Have 3 broad based recognized land use categories, agriculture, grazing and forestry. Then award by percentage funding for each.*

16. Changes in Landuse (page 209, column 3). In some instances a management decision may be made that causes a major shift in land use, such as changes from a less intensive use or from a more intensive landuse. This change in land use may change the base payment eligibility. NRCS is asking comment on how this situation can be addressed in the rule.

Comments: _____

17. Eligibility Requirements (page 210, column 1). Concerns were expressed through the Advanced Notice of Proposed Rule process that producers not accept stewardship payments while at the same time operating land outside the CSP contract at a less-than-acceptable level of treatment. NRCS is seeking comments on this provision.

Comments: *Ensure that landowners don't receive duplicate payments for the same practice.*

18. Eligibility Requirements (page 210, column 2). Producers who have historically met or exceeded the requirements, in some cases, may have endured a flood, fire, or other event that has either destroyed or damaged practices that would have made them eligible for CSP. NRCS is seeking comment on whether there should be any special dispensation or consideration given for this situation.

Comments: _____

19. Eligibility Requirements (page 210, column 3). As a contract requirement, the participant will be required to do additional conservation practices, measures, or enhancements as outlined in this section and in the sign-up announcement. NRCS is seeking comment on these minimum eligibility and contract requirements.

Comments: _____

20. Eligibility Requirements (page 210, column 3). NRCS is also seeking comments on the utility of a self-screening tool (both Web-based and hardcopy) to assist producers in determining if they should consider application to CSP. Should this self-screening tool be a regulatory requirement as described in the proposed rule?

Comments: _____

21. Enrollment Categories (page 211, column 1). NRCS proposing to fund as many subcategories within the last category to be funded as possible. Additionally, NRCS is seeking comments on whether the remaining subcategories should be offered pro-rated payments, or not funded at all

Comments: _____

22. Enrollment Categories (page 211, column 1). NRCS is seeking comments on whether it should partially fund applications, or whether only those categories and subcategories that could be fully funded would be offered a CSP contract.

Comments: *Be sure to include the development of a Forest Stewardship Plan or Forestry Management Plan as a category and all forest management practices in a subcategory*

23. Conservation Practices (page 211, column 3). NRCS is proposing to utilize the new practice component of CSP to provide cost-share when practices are needed, although at a lower cost share than other USDA programs, to minimize redundancy between CSP and other existing USDA conservation programs. NRCS seeks comment on whether this approach will encourage participants to install practices through other programs in order to become eligible for CSP.

Comments: _____

24. Technical Assistance (page 211 and 212). CSP technical assistance tasks identified include: 1) Conduct the sign-up and application process; 2) Conduct conservation planning; conservation practice survey, layout, design, installation, and certification; 3) Training, certification, and quality assurance of professional conservationists; and 4) Evaluation and assessment of the producer's operation and maintenance needs. NRCS is seeking comments on which tasks would be appropriate for approved or certified Technical Service Providers.

Comments: *Include the actual writing of Forest Stewardship or Forestry Management Plans and projects with implementation of silvicultural practices delineated in the plan.*

25. Additional Requirements for Tier I and Tier II (page 212, column 2). NRCS is proposing that CSP participants must address the following by the end of their contract:

- Tier I contracts must address the national significant resource concerns and any additional requirements as required in the enrollment category or sign-up announcement; and

- Tier II would require a significant resource concern, other than the national significant resource concerns, to be selected by the applicant over the entire agricultural operation.

NRCS is seeking comment on the value of these additional requirements for Tier I and II contracts in order to maximize the environmental performance of the CSP program.

Comments: *the writing of tier II standards Plans / Land Management Plans and the establishment of riparian forest buffers should be eligible for tier II contracts.*

26. Tier Transition (page 212, column 2). NRCS is proposing a mechanism for a participant to transition to a higher tier of participation and is seeking comment on this proposal (see page 212).

Comments: _____

27. Contract Noncompliance (page 212, column 3). If the participant cannot fulfill his CSP contract commitment, the contract calls for the participant to refund any CSP payments received with interest, and forfeit any future payments under CSP. NRCS is interested in comments on this and other concerns that the public might have on noncompliance with the CSP contract requirements.

Comments: _____

28. Rental Payment Reduction Factor (page 213, column 1). NRCS is seeking comment on whether the reduction factor should be fixed or variable over the life of the program, with the 0.1 factor being the upper limit.

Comments: _____

29. Assessment and Evaluation (page 214, column 1). NRCS is seeking comments on which assessment and evaluation projects would most benefit from the involvement of CSP participants and would be most useful for program evaluation.

Comments: _____

30. Enhancement Activity Payments (page 214, column 1). NRCS is seeking comments on how to determine the appropriate payment rates for those types of enhancement activities where the payment is intended to encourage producers to change their mode of operation, but not necessarily to offset additional or more expensive activities.

Comments: _____

Conservation Security Program Comments
ATTN: David McKay
Conservation Operations Division - NRCS
PO Box 2890
Washington, DC 20013